2007 Sunset Public Hearing Questions for

COMMISSION OF INDIAN AFFAIRS

Created by Section 4-34-101, Tennessee Code Annotated (Sunset termination 30 June 2008, TCA 4-29-229(a))

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1. Provide a brief introduction to the Commission of Indian Affairs, including information about its purpose, statutory duties, staff, and administrative attachment.

The purpose of the Commission of Indian Affairs is to represent the Native American community interests in and to the State of Tennessee. House Bill 1530/Senate Bill 704 was passed by the House of Representatives and the Senate on 27 May 2003, and signed by the Governor on 13 June 2003.

By statute (TCA 4-34-102) the Commission's purposes are:

- (1) Deal fairly and effectively with Indian affairs;
- (2) Research and find local, state and federal resources of funding and other assistance for the implementation or continuation of meaningful programs for Indian citizens of the state;
- (3) Provide aid and protection for Indians as needs are demonstrated;
- (4) Prevent undue hardships;
- (5) Assist Indian communities in social and economic development;
- (6) Promote recognition of, and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans; and
- (7) Communicate with Tennessee's Indian communities and solicit communications from such Indian communities.

By statute (TCA 4-34-103) the powers and duties of the Commission are to:

- (1) Study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs;
- (2) Investigate relief needs of Indians of Tennessee and to provide technical assistance in the preparation of plans for the alleviation of such needs;
- (3) Confer with appropriate officials of local, state and federal governments and agencies of these governments, and with such congressional commissions that may be concerned with Indian affairs;
- (4) Encourage and implement coordination of applicable resources to meet the needs of Indians in Tennessee;
- (5) Study the existing status of recognition of all Indian groups, tribes and communities presently existing in Tennessee;
- (6) Establish appropriate procedures to provide for legal recognition by the state of presently unrecognized tribes, nations, groups, communities or individuals, and to provide for official state recognition by the commission of such;
- (7) Cooperate with and secure the assistance of the local, state and federal governments or any agencies thereof in formulating any programs that the commission finds necessary or beneficial to Indians in Tennessee;
- (8) Coordinate any programs regarding Indian affairs adopted or planned by the federal government to the end that the commission secure the full benefit of such programs;
- (9) Review and comment on all proposed or pending state legislation and amendments to existing state legislation directly affecting Indians in Tennessee; and
- (10) Conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the commission.

The Commission meets on a quarterly basis to discuss issues of concern to the state's Indian community, supplemented by special meetings and public hearings, when necessary, on specific issues.

The Commission has no staff and no budget from the State (4-34-105.§ J). By statute (TCA 4-34-108), the chairperson of the Commission, elected by the Commission, is assigned the "day-to-day responsibilities of the commission", essentially acting as executive director of the Commission.

The Commission is administratively attached to the Department of Environment and Conservation (TCA 4-34-107). TDEC General Counsel has been assigned by TDEC to the TCIA to provide legal advice.

- 2. Provide a list of current commission members, or their designees, and describe how membership complies with Section 4-34-104, Tennessee Code Annotated.

 Are there any vacancies on the commission and, if so, what is being done to fill those vacancies?
 - 1. Evangeline Lynch, West TN Grand Division, chairperson
 - 2. Kippy Vaughn, East TN Grand Division, vice chairperson
 - 3. Ruth Knight Allen, Memphis metro area, secretary
 - 4. Jimmy Reedy, Middle TN Grand Division
 - 5. Jeanie Walkingstick King, Knoxville metro area
 - 6. tom kunesh, Chattanooga metro area
 - 7. David Teat, Nashville metro area

There are no commissioner vacancies.

- 3. Section 4-34-104(b)(3), Tennessee Code Annotated, provides that "preference in selection of at least five Indian commissioners shall be given to Native American Indians..."

 How many members of the commission are Native American Indians?

 Does membership include members who are 60 years of age or older? Members who are female?
 - 1. Evangeline Lynch, member, Choctaw Nation of Oklahoma
 - 2. Jimmy Reedy, member, Muscogee (Creek) Nation of Oklahoma
 - 3. Jeanie Walkingstick King, member, Eastern Band of Cherokee Indians
 - 4. David Teat, member, Cherokee Tribe of NorthEast Alabama
 - 5. Ruth Knight Allen, Tennessee state-recognized Native American Indian
 - 6. tom kunesh, son of a member, Standing Rock Lakota Tribe

Two members of the Commission are over 60 years old:

- 1. Ruth Knight Allen
- 2. Evangeline Lynch

Four members of the Commission are female:

- 1. Evangeline Lynch, chairperson, West TN Grand Division
- 2. Ruth Knight Allen, secretary / treasurer Memphis metro area
- 3. Jeanie Walkingstick King Knoxville metro area
- 4. Kippy Vaughn, vice chairperson East TN Grand Division

4. How many times did the commission meet during fiscal years 2006 and 2007 and how many members attended each meeting? Did the commission comply with all meeting frequency, location and notice requirements set out in Section 4-34-105(a),(b) and (c), Tennessee Code Annotated?

The Commission met in its official capacity eight times in fiscal years 2006 and 2007.

- 1. 8 October 2005 Knoxville, 3 attended
- 2. 3 December 2005, Memphis, 5 attended
- 3. 4 March 2006, Nashville, 4 attended
- 4. 10 June 2006 Chattanooga, 5 attended
- 5. 5 August 2006 Knoxville, 4 attended
- 6. 2 December 2006 Memphis, 4 attended
- 7. 17 March 2007 Nashville, 6 attended
- 8. 9 June 2007 Chattanooga, 7 attended

There were also two public hearings on the "recognition" issue during this time:

- 1. 20 May 2006, Nashville, Rulemaking Public Hearing on Rules for Recognition Criteria for Native American Indians, 1 attended
- 2. 21 October 2006, Nashville, Rulemaking Public Hearing on Rules for Recognition Criteria for Native American Indians, 0 attended

Yes, the Commission complied with all meeting frequency, location and notice requirements, with meetings held:

- a. quarterly,
- b. on Saturdays,
- c. rotated among the cities of Memphis, Nashville, Chattanooga and Knoxville,
- d. provided 10-day advance notice of the meeting provided by email and TCIA website.
- 5. What *per diem* or travel reimbursement do members receive? How much was paid in to commission members during fiscal years 2004 and 2005? Were any other expenses charged to the commission?

The Commission was not provided a budget by the State therefore no *per diem* or travel reimbursements were provided to Commission members.

Commission members bore all necessary expenses for the operation of the Commission with public and personal contributions.

No expenses were charged to the Commission.

6. What were the commission's revenues (by source) and expenditures (by object) for fiscal years 2006 and 2007?

The Commission's revenues were obtained solely through individual personal donations from meeting attendees.

- 7. Provisions of Title 4, Chapter 34, Tennessee Code Annotated, require the commission to have a web site and to provide certain information on that site (meeting notices, Section 4-34-105(c); meeting minutes, Section 4-34-105(d); annual reports, Section 4-34-105(e)).
 - a. Does the commission maintain the required web site and does the site contain all of the required information? What other kinds of public information is provided on the site? Please provide the web address for the commission's website.

The website provided to the Commission by TDEC (www.state.tn.us/environment/tcia/ and www.state.tn.us/environment/boards/tcia.php) was created and is maintained by TDEC. It has links to:

- 1. TN Commission of Indian Affairs Board and Meeting Agenda;
- 2. a hyperlink to Tennessee Code Annotated 4-34-101 through 108;
- 3. Committees and Contact Information;
- 4. TCIA Correspondence;
- 5. Approved Minutes from Meetings;
- 6. Rulemaking Hearing of October 28, 2006; and
- 7. a hyperlink to the Sunshine Notice of the Commission's next meeting.

b. Are minutes of all the commission meetings posted on the commission's website within 100 days of the meeting as required? Are minutes of all meetings of the commission available on the website as required?

Yes. They are available at www.state.tn.us/environment/tcia/board/boardminutes.shtml

c. Has the commission prepared annual reports and placed those reports on the commission's website within 45 days of their approval as required? Are all annual reports of the commission kept available on the website as required?

Yes. Annual reports of the Commission's activities of fiscal years 2005 and 2006 have been posted on the Commission's website and are attached here as Appendix A.

8. Was a rules commission appointed as required by Section 4-34-105(m), Tennessee Code Annotated? If so, what procedural and operating rules did the commission develop and were those rules approved by a majority vote of the full commission as required?

Yes. The Commission appointed a Rules and Procedures Committee consisting of the Commission's officers, which met three times in 2004-2005, and submitted ten Standing Rules which were adopted by the Commission on 12 March 2005. The Standing Rules are attached as Appendix B.

After three years of work and constant revisions, the Commission also approved Recognition Criteria for Native American Indian Nations, Tribes or Communities on 5 August 2006, which went into effect 24 June 2007. The Recognition Criteria for Native American Indian Nations, Tribes or Communities are attached as Appendix C.

9. Section 4-34-106, Tennessee Code Annotated, Sets out precedents which must be followed before any member or employee of the commission may enter into litigation. Has any member or employee entered into any litigation under provisions of this section?

No.

- 10. What were the commission's major accomplishments during fiscal years 2006 and 2007? Specifically, describe the nature and extent of commission activities as they pertain to each of the enumerated purposes and duties defined in Sections 4-34-102 and 103, Tennessee Code Annotated.
 - 1. Approved Rules for Recognition Criteria for Native American Indian Nations, Tribes or Communities, effective date 24 June 2007, with public Rulemaking Public Hearings on 20 May 2006 and 21 October 2006, in Nashville. Approved a Recognition Application. This and related issues have consumed approximately 60% of the Commission's focus over the past four years. See Appendix C.

Pertains to **Duties** (TCA 4-34-103) 6 and 10:

- (6) Establish appropriate procedures to provide for legal recognition by the state of presently unrecognized tribes, nations, groups, communities or individuals, and to provide for official state recognition by the commission of such; [...]
- (10) Conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the commission.
- 2. Approved Resolution on Indian Mascot Removal, 3 December 2005. See Appendix D.

Pertains to Purposes (TCA 4-34-102) 3, 4, 5 and 6:

- (3) Provide aid and protection for Indians as needs are demonstrated;
- (4) Prevent undue hardships;
- (5) Assist Indian communities in social and economic development;
- (6) Promote recognition of, and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans; and

Pertains to Duties (TCA 4-34-103) 1, 2, 3, 4, 5 and 9:

- (1) Study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs;
- (2) Investigate relief needs of Indians of Tennessee and to provide technical assistance in the preparation of plans for the alleviation of such needs;
- (3) Confer with appropriate officials of local, state and federal governments and agencies of these governments, and with such congressional commissions that may be concerned with Indian affairs;
- (4) Encourage and implement coordination of applicable resources to meet the needs of Indians in Tennessee;
- (5) Study the existing status of recognition of all Indian groups, tribes and communities presently existing in Tennessee;
- (9) Review and comment on all proposed or pending state legislation and amendments to existing state legislation directly affecting Indians in Tennessee;

3. Approved Resolution on Protection of Pinson Mounds site - Native Americanrelated state parks need Native American-approved management plans, 3 December 2005. See Appendix E.

Pertains to **Purposes** (TCA 4-34-102) 3 and 6;

Pertains to Duties (TCA 4-34-103) 2, 7 and 9.

4. Approved Resolution on Protection of Pinson Mounds site - legislative proposal, 3 December 2005. See Appendix F.

Pertains to **Purposes** (TCA 4-34-102) 3 and 6;

Pertains to Duties (TCA 4-34-103) 2, 7 and 9.

5. Approved Resolution on Protection of Little Cedar Mountain - recommend HJR 84 to legislature, 3 December 2005. See Appendix G.

Pertains to Purposes (TCA 4-34-102) 3 and 6;

Pertains to **Duties** (TCA 4-34-103) 2, 7 and 9.

6. Approved advocacy of Resolution to amend TCA 4-34-104 (Members) to separate Grand-Division from metro-area caucus areas to 2006 legislature, 3 December 2005. See Appendix H.

Pertains to Purposes (*TCA 4-34-102*) 1, 3, 4 and 7;

Pertains to Duties (TCA 4-34-103) 1, 2, 3, 4 and 9.

7. Approved advocacy of Resolution on Recognition of Historic Tribes of Tennessee to 2008 legislature, 4 March 2006. See Appendix I.

Pertains to Purposes (TCA 4-34-102) 1, 5 and 6;

Pertains to **Duties** (TCA 4-34-103) 1, 2, 3, 4, 5 and 6.

8. Approved the American Indian Research Initiative/Health&Education

Community Assessment, 17 March 2007. See Appendix J.

Pertains to Purposes (*TCA 4-34-102*) 2, 3, 4, 5 and 7;

Pertains to **Duties** (TCA 4-34-103) 1, 2, 3, 4 and 5.

9. Approved Resolution of Support for Native American Indian Association's

(NAIA) Circle of Life Center. See Appendix K.

Pertains to Purposes (TCA 4-34-102) 5, 6 and 7;

Pertains to **Duties** (TCA 4-34-103) 2 and 4.

10. Reviewed 2007 legislative proposals.

Pertains to **Purposes** (TCA 4-34-102) 3, 4 and 6;

Pertains to **Duties** (TCA 4-34-103) 1, 2, 3, 4, 7, 8 and 9.

- 11. Describe any items related to the commission that require legislative attention and your purposed legislative changes.
 - 1. Specific to TCA 4-34-104 (a) § 2: the Commission of Indian Affairs, per the approval of the 2005 Tennessee Native American Convention by referendum and by the Commission's voted approval, requests a legislative amendment separating the Grand-Division from metropolitan caucus areas, in effect creating seven (7) separate and mutually exclusive caucus areas, each of which would have separate appointed representation on the Commission. See Appendix H.
 - 2. Recognition of Historic Tribes of Tennessee Resolution. See Appendix I.

Yes. The recognition issue (recognition criteria for tribes, organizations and individuals) is of primary interest to many Native Americans and Native American-related organizations across the state, and an issue that should be taken care of by an Indian Affairs Commission. We now have state rules for tribal recognition (Rules Chapter 0785-1 - see Appendix B), and will be reviewing pending petitions for recognition. The Commission will address organizational and individual recognition issues after further study and research per TCA mandate (TCA 4-34-103 § 1).

After all the formational community meetings with multiple levels of input (*ie*, individuals, organizations, state- and federally recognized tribes, state agencies) for the past four years, the Commission is now in a better position to address Native American Indian community concerns and issues with state agencies. Some of the issues that are pressing and need to be developed, overseen and administered by this Commission and its governmental position are:

- a. The Commission has begun to address the issue of Native American Indian representation in State Park management planning, on-site management and interpretation of parks related to Native-American-Indians;
- b. The Department of Education should have state-level Native American Indian representation to facilitate dialogue on the state's public schools moving away from use of Native American Indian religious items and images as mascots, and a more inclusive and expanded curriculum that addresses the history of this State prior to European immigration and after the "Removal";
- c. Obtaining significant grant funding for a statewide American Indian Research Initiative/Health&Education Community Assessment which was begun in 2007;
- d. Developing and oversight of a Native American tourism project for the state, in conjunction with the Department of Tourism;
- e. Because there are Native American town and burial sites on private property being removed and/or destroyed constantly through development, the Commission serves as an advocate in the public dialogue for site protection;
- f. 11,150 Native Americans' remains are currently being stored in boxes on shelves in storage units across Tennessee, making it the third largest concentration of Native American remains in the USA. The Commission is developing a plan to work with Tennessee's culturally-affiliated tribes as a state agency to repatriate these remains in accordance with the Native American Graves and Repatriation Act (NAGPRA), based on the example of the Colorado Commission of Indian Affairs.

Due to the historic relationship of Native American Indians and Tennessee, these issues, and many others, need a public commission to advocate the interests of the Native American community, and to assist the State in addressing these issues. The best way to achieve this is through a state-mandated Commission.

- 13. Please list all commission programs or activities that receive direct or indirect federal financial assistance and therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.
 - Not applicable since the Commission has no federal or state financial assistance to fund programs or activities apart from its public meetings held primarily at state office buildings.
 - If the commission does receive federal assistance, please answer 14 through 21. *If the commission does not receive federal assistance, proceed directly to question20.*
- 20. Please provide a breakdown of current commission staff by title, ethnicity, and gender.

The Commission has no staff.

21. Please list all commission contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

The Commission has made no contracts.

Appendix A

Annual Report: Fiscal Year 2004-05 COMMISSION OF INDIAN AFFAIRS

2003
october-november - appointments made.

2004

31 january - elected officers: Teri Ellenwood, chair; Jimmy Reedy, vice chair; Ruth Knight Allen, secretary.

10 july

18 september - re-approved recognition of 89 formerly state-recognized Indians.

23 october - Committee of the Whole: Recognition Criteria

4 december - account balance: \$0

- approved Support for Leonard Peltier's Continued Quest for Justice
- approved Recognition of Historic Tribes of Tennessee (ACTIA).
- approved Recognition Criteria for Native American Indian Nations, Tribes, or Bands.
- approved Resolution of Support to Save Little Cedar Mountain (Anderson).

2005

- Policy Statement regarding Display of Indian Remains (Ellenwood) 12 march
- 30 april - Committee of the Whole: Recognition Procedures
- 4 june - elected Jimmy Reedy, chairperson; Evangeline Lynch, vice chair; Ruth Knight Allen, secretary.

FISCAL YEAR 2004-05 (7/1/04-6/30/05)

		Debit	Credit
Starting balance:			\$0.00
12/4/04	Donations		100.00
2/15/05	Business cards	(71.05)	
3/12/05	Donations		194.00
6/4/05	Donations		110.00
Total		(\$71.05)	\$404.00
Ending Balance			\$332.95

Appendix A

Annual Report: Fiscal Year 2005-06 COMMISSION OF INDIAN AFFAIRS

2005

8 october - no quorum

3 december - adopted Indian Mascot Removal resolution (from ACTIA)

- adopted Protection of Pinson Mounds site resolution (from ACTIA)
- adopted Native American-related state parks need Native American-approved management plans (from ACTIA)
- adopted Protection of Little Cedar Mountain and to recommend HJR 84 to legislature (from ACTIA)
- adopted Legislative amendment re. separating Grand-Division caucus areas (from TNNAC)
- re-recognized the United Eastern Lenape Nation of Winfield, Tennessee as an indian-related organization in Tennessee (from UELN)

2006

- approved the original 1990 recognition criteria 4 march

- approved Recognition of the Historic Indian Tribes of Tennessee (from ACTIA)

20 may - Rulemaking Public Hearing on Rules for Recognition Criteria for Native

American Indians

10 june - approved the TDEC-proposed recognition criteria and submission to the state to initiate rulemaking process.

FISCAL YEAR 2005-06 (7/1/05-6/30/06)

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Previous Balance:			\$332.95
		Debit	Credit
10/11/05	Stationery	(216.65)	
12/15/05	Donation		50.00
12/28/05	Donation		50.00
1/31/06	Business cards	(40.50)	
6/10/06	Benefit lunch		217.00
Total		(257.15)	\$649.95
ENDING BALANCE			\$392.80

STANDING RULES

Tennessee Commission of Indian Affairs Amended and approved March 12, 2005

- 1. The Commission shall meet at a location and on a date and time agreed upon at a regularly scheduled Commission meeting with a quorum present, or agreed upon by a majority of Commission members at least eleven (11) days in advance and in writing. The Chairperson, who sees a need for an emergency meeting or is requested to do so by a commission member, may call no more than two (2) meetings in a calendar year with, at least, a three-day notice and in consultation with Commission members. Any Commission member may also call for an emergency meeting following the same said procedures. Absences may be excused for serious personal and family illnesses and funerals, with a written request submitted (via email) up to twenty-four hours prior to a Commission meeting.
- 2. Any meeting that is not called and scheduled by a majority of Commission members shall not be considered a legal meeting, except for emergency meetings, which needs the requirements for Section 1 with a three-day notice.
- 3. Officers serve at the pleasure of the Commission.
- 4. Reports from the commissioners, committees, ACTIA and TNNAC shall be heard at each meeting.
- 5. Commissioners' and committee reports shall be typed and one (1) paper copy given to the secretary for filing on or before the meeting for the permanent state record.

 Written reports not submitted at the meeting are to be mailed or emailed to secretary within forty-five (45) days following meeting.
- 6. A commissioner shall be subject to removal after missing two (2) meetings within a calendar year without just cause, excluding emergency meetings.
- 7. Officers shall be censored for inappropriate behavior under Robert's Rules of Order. Two warnings will be issued with the third violation calling for automatic removal.
- 8. Public comments shall be taken according to the order of sign-up sheets.
- 9. The election of officers for the Tennessee Commission of Indian Affairs shall be by a vote of the majority present.
- 10. Unless expressly stated in Robert's Rules of Order on motions that require 2/3 votes, the majority present shall rule in transactions of Commission business.

Submitted by: The Rules/Procedural Committee
(September 18, 2004; December 4, 2004; and March 12, 2005)
Evangeline W. Lynch, Chairperson
Ruth Knight Allen, Secretary
Teri Ellenwood (past Chairperson)

Rules of

The Tennessee Commission of Indian Affairs

CHAPTER 0785-1 RECOGNITION CRITERIA FOR NATIVE AMERICAN INDIANS

TABLE OF CONTENTS

- 0785-1-.01 General
- 0785-1-.02 Recognition Criteria For Native American Indian Nations, Tribes or Communities
- 0785-1-.03 Procedures For Petitioning For Recognition
- 0785-1-.04 Changes In Membership Rolls
- 0785-1-.05 Administrative Review

0785-1-.01 GENERAL.

- (1) General
 - (a) Purpose

To establish criteria and procedures to provide for legal recognition by the state of Tennessee of Native American Indians.

- (b) Use of Number and Gender
 - 1. As used in these Rules:
 - (i) Words in the masculine gender also include the feminine and neuter genders; and
 - (ii) Words in the singular include the plural; and
 - (iii) Words in the plural include the singular.
- (c) Rule Structure

These Rules are organized, numbered, and referenced according to the following outline form:

- (1) paragraph
 - (a) subparagraph
 - 1. part
 - (i) subpart
 - (I) item

I. subitem

A. section

(A) subsection

(2) Definitions

When used in Rules 0785-1-.01 through .05, the following terms have the meanings given below unless otherwise specified:

- "Act" means Tennessee Code Annotated Section 4-34-101 et seq., Commission of Indian Affairs.
- "Applicant" means Native American Indian groups applying for Nation, Tribe, or Community recognition in Tennessee.
- "Commission" means the Tennessee Commission of Indian Affairs.
- "List" means the updated membership list to be submitted to the Commission by applicants and recognized Nations, Tribes, and Communities.
- "Nation", "Tribe" and "Community" for the purposes of these rules, mean an assembly of Indian people who are related to each other by blood or kinship and includes "band" and "clan".
- "Recognized" means being acknowledged as a Native American Indian Nation, Tribe, or Community by the state of Tennessee.
- "Roll" means the official list of recognized Native American Nations, Tribes, and Communities in Tennessee.
- "State" means the state of Tennessee.

Authority: T.C.A. §4-34-103. Administrative History: Original rule filed July 3, 1990; effective August 17, 1990. Amendment filed April 10, 2007; effective June 24, 2007.

0785-1-.02 RECOGNITION CRITERIA FOR TENNESSEE NATIVE AMERICAN INDIAN NATIONS, TRIBES, OR COMMUNITIES

- (1) Eligibility for recognition shall be determined using the following criteria:
 - (a) The applicant for recognition is indigenous to Tennessee and has been identified on a substantially continuous basis as Native American Indians throughout the history of their group; and
 - (b) A majority of the applicant inhabits a particular geographic area in Tennessee or lives in a community in Tennessee viewed as Native American Indian and distinct from all other populations in the geographic area, and a majority of its members consist of individuals who have established verifiable documented descendency from an Indian tribe which has historically inhabited the State of Tennessee; and
 - (c) The applicant has maintained tribal political influence or other authority over its members, or is able to demonstrate their existence as a continuous, distinct cultural entity capable of selfregulation, throughout their history until the present; and
 - (d) The membership of the applicant is composed of a majority of persons who are not members of any other North American Indian federal or state recognized tribe.
- (2) The following information shall be provided to the Commission for review:
 - (a) A copy of the applicant's present governing document and/or a statement describing in full the membership criteria and the procedures through which the group governs its affairs and members; and
 - (b) A list of all known current members of the group and a copy of any available list of former members, based on the tribe's own defined criteria; and
 - (c) A history of the applicant from 1900 to present (maximum of 2000 words, unless an exception is granted by the Commission) written by a professional historian or anthropologist; and
 - (d) The applicant shall also submit additional information including one (1) or more of the following:
 - 1. Documented traditions, customs and legends that demonstrate the group's Native American Indian cultural heritage; and/or
 - 2. Letters, statements, and documents from city, county, state, or federal authorities that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs; and/or
 - 3. Letters, statements, and documents from federal or state recognized tribes in and/or outside of Tennessee which attest to the Indian heritage of the group; and/or
 - 4. Other compelling documentation acceptable by the Commission that shows the heritage of the applicant; and
 - (e) A signed and notarized statement from the officers of the applicant affirming that, to the best of their knowledge, information, and belief, the information provided is true and accurate.

Authority: T.C.A. §4-34-103. Administrative History: Original rule filed July 3, 1990; effective August 17, 1990. Amendment filed April 10, 2007; effective June 24, 2007.

0785-1-.03 PROCEDURES FOR PETITIONING FOR RECOGNITION

(1) An Application For Recognition form with appropriate instructions for completion and submission on the back shall be developed and approved by the Commission. It shall be available on request by writing to the Tennessee Commission of Indian Affairs at the address below. Complete applications and supporting documentation are to be sent to:

Tennessee Commission of Indian Affairs

Tennessee Department of Environment and Conservation

Office of General Counsel

401 Church Street

L & C Tower, 20th Floor

Nashville, Tennessee 37243

(2) The Commission shall appoint a Review Committee, consisting of three (3) members of the Commission, to review applications and supporting documentation for completeness and to work with applicants to achieve completeness. A record shall be maintained of all applications and appropriate information, including, but not limited to, the date received, date determined complete, date presented

- to the Commission and the Commission's decision. The Review Committee shall review an application within six (6) months of the submittal date.
- (3) If the application and required documentation are complete, the Committee will present the information to the Commission for review. Applicant(s) shall be notified in writing of the date, time and location of the Commission meeting at which the application is to be considered.
- (4) The Commission will either approve or deny the application within twelve (12) months of the application being determined complete by the Review Committee. The Commission may request additional information from the applicant.
- (5) The Commission will notify each applicant in writing of the Commission's decision.
- (6) Applications pending under the former Tennessee Commission of Indian Affairs may be processed using the new criteria following the effective date of these rules. Applicants shall be contacted in writing and advised accordingly. The Commission and/or the Review Committee may request the applicant to provide updated or additional information.
- (7) An applicant may, at any time prior to approval, withdraw their application and supporting documentation by writing to the Commission at the address in paragraph (1) of this Rule and may request the return of all submitted documents.
- (8) An applicant applying for recognition shall specify all submitted documentation that is to be returned to the applicant following the decision of the Commission or withdrawal by the applicant of the submitted application. All documents returned to the applicant shall be at the applicant's expense.
- (9) The roll of all approved for recognition shall be maintained current by the Commission and posted on the Commission's web site.

Authority: T.C.A. §4-34-103. Administrative History: Original rule filed July 3, 1990; effective August 17, 1990. Amendment filed April 10, 2007; effective June 24, 2007.

0785-1-.04 CHANGES IN MEMBERSHIP LISTS AND THE ROLL

- (1) Every two (2) years from their date of recognition, Nations, Tribes, or Communities recognized pursuant to the rules herein contained shall notify the Tennessee Commission of Indian Affairs of any changes in membership criteria and subsequent additions or deletions of members at the address in rule 0785-1-.03(1).
- (2) Any recognized Nation, Tribe, or Community may terminate its recognition by submitting written notice to the Chairperson of the Commission. The Commission, at its next meeting, shall vote to remove the name from the roll.

Authority: T.C.A. §4-34-103. Administrative History: Original rule filed July 3, 1990; effective August 17, 1990. Amendment filed April 10, 2007; effective June 24, 2007.

0785-1-.05 ADMINISTRATIVE REVIEW

Applicants (Nations, Tribes, or Communities) who disagree with the denial of their application for recognition may use the following procedure to seek a contested case hearing before the Commission pursuant to Sections 4-5-223 through 225 of the Uniform Administrative Procedures Act.

- (1) When an affected applicant disagrees with the denial of an application for recognition based upon the contention that such action is an illegal application of rules and/or statutes or such action is based upon invalid rules or statutes, the applicant may petition the Commission for a declaratory order.
- (2) Upon receipt of such a petition, the Commission may convene a contested case hearing pursuant to the provisions of T. C. A. Section 4-5-101, et seq.
- (3) The Commission may refuse to issue a declaratory order or fail to set a petition for a contested case hearing within 60 days of receipt of the petition. In either case, the affected applicant may apply for a declaratory judgment pursuant to T. C. A. 4-5-225.

Authority: T.C.A. §4-34-103. Administrative History: Original rule filed July 3, 1990; effective August 17, 1990. Amendment filed October 9, 1991; effective November 23, 1991. Amendment filed April 10, 2007; effective June 24, 2007.

Appendix D

RESOLUTION FOR THE DISCONTINUATION OF NATIVE AMERICAN INDIAN MASCOTS IN THE STATE OF TENNESSEE

- 1. Whereas: Approximately 100 Tennessee public schools use American Indian/Alaskan Native mascots in their slogans and/or symbols; and
- 2. Whereas: Using these mascots in grades K through 12 impact our youth at the most impressionable ages, and present the most damage to the self-esteem of our Native youth; and
- 3. Whereas: The use of Native American slogans and symbols as mascots are often viewed as derogatory, demeaning, and disrespectful to American Indian/Alaska Native people; and
- 4. Whereas: In 1993 the National Congress of American Indians denounced the use of any American Indian name or artifice associated with team mascots; and
- 5. Whereas: In 1996 the University of Tennessee at Chattanooga discontinued use of its mascot, Chief Moccanooga, as "inappropriate in an institution that values and celebrates diversity"; and
- 6. Whereas: The Governors' Interstate Indian Council "encourages all public schools, sports teams, and private businesses to discontinue using Native American mascots in their slogans and/or symbols" (1991, 1998); and
- 7. Whereas: In 2001 the U.S. Commission on Civil Rights denounced "the use of Native American images and nicknames as sports symbols" and began its call "for an end to the use of Native American images and team names by non-Native schools"; and
- 8. Whereas: In 2001 the Advisory Council on Tennessee Indian Affairs' Education Committee was charged with recommending to the state Commission of Indian Affairs "the cessation and removal of all indian mascot names and pictures from TN schools"; and
- 9. Whereas: In 2002 Martin Methodist College in Pulaski changed its sports team nickname from "Indians" to "Redhawks" in reaction to the United Methodist Church's own opposition to such practices;

THEREFORE Be It Resolved That:

- 1. The Tennessee Commission of Indian Affairs advocate the elimination of Native American Indian mascots and symbols in the state public schools; and
- 2. The Tennessee Commission of Indian Affairs call upon all public schools in Tennessee to voluntarily discontinue their usage of all Native American mascots and symbols; and
- 3. The Tennessee Commission of Indian Affairs, by itself and in coordination with other individuals and organizations, diligently work to eliminate the use of Native American Indian mascots and symbols while providing educational opportunities that accurately represent First Nations peoples and cultures; and
- 4. The Tennessee Commission of Indian Affairs work with the Department of Education to encourage elimination of these mascots and symbols, help develop transition plans with the least financial impact to local school boards, develop educational material that the Department can present to the schools to expedite change; and
- 5. The Tennessee Commission of Indian Affairs request the Tennessee Human Rights Commission and the Tennessee Department of Education also to strongly urge all Tennessee schools using Native American Indian related mascots to discontinue such names and imagery by June 2009.

Adopted unanimously by the Tennessee Commission of Indian Affairs
3 December 2005 Memphis

Appendix E

Native American participation in Tennessee State Park planning

To: Tennessee Department of Environment and Conservation

Tennessee Historical Commission

Tennessee Archaeological Advisory Council

Tennessee State Parks

Tennessee Council for Professional Archaeology

Tennessee Division of Archaeology Tennessee Ancient Sites Conservancy

Native American Indian Association of Tennessee Tennessee Council for Professional Archaeology

The current questions regarding the future of the Pinson Reforestation Complex (West Tennessee Tree Nursery) on the Pinson Mounds National Historic Landmark brings up several issues regarding the preservation, protection and advocacy of Native American cultural resources owned and managed by the State of Tennessee.

The State of Tennessee owns many properties, including three State Parks (Pinson Mounds, Old Stone Fort, Red Clay), whose significance is directly tied to Native American culture, both past and present. There are no publicly-available Management Direction Statements for these properties and parks (www.state.tn.us/environment/parks/mgtplans.php), and there is no mention of Native American cultural resources or input in the 2003-2008 Tennessee State Recreation Plan or the August 2005 Tennessee State Parks Strategic Direction. The lack of reference to State-managed Native American cultural resources in State planning documents indicates a serious problem of cultural sensitivity and ethnic/racial representation in the State's land management practices.

The issue of continued tree farming on the Pinson Mounds State Archaeological Area/National Historic Landmark should be resolved by direct discussions with the interested parties, especially with Native American representatives, with the goal of creating a Cultural Resource Management Plan for Pinson Mounds which can then serve as a template and benchmark for developing Cultural Resource Management Plans for all other State properties of Native American cultural significance.

Plans to improve Native American advocacy in State site preservation, protection and interpretation should include the following changes:

- 1. Involvement of the Tennessee Commission of Indian Affairs in the Tennessee State Parks Review Process.
- 2. Development of Tennessee State Parks Cultural Resource Management Plans for all Tennessee State Parks with Native American cultural resources by 2010.
- 3. Development of Management Direction Statements and full Management Plans, with full and direct Native American participation, for all state-owned sites of Native American significance.
- 4. Development of Management Direction Statements and full Management Plans, with full and direct Native American tribal participation, for all state-owned National Historic Landmark sites of Native American significance.
- 5. Appointment of Native Americans to the Tennessee Recreation Advisory Committee.
- 6. Appointment of Native Americans to the Tennessee Historical Commission.

Thank you in advance for your time and consideration. We look forward to your response.

ref. "Purpose of Management Direction Statement

Management Direction Statements provide strategic management direction for all state parks that do not have an updated full management plan. MDS do not negate the need for future, more detailed management plans. Management Direction Statements also describe protected area values, management issues and concerns; management strategy focused on immediate priority objectives and strategies; and directional statements from other planning processes."

- State Park Management Plan, Management Direction Statement, Bledsoe Creek State Park, July 2004, p 4

Adopted unanimously by the Tennessee Commission of Indian Affairs 3 December 2005 Memphis

Appendix F

A RESOLUTION TO PROTECT THE INTEGRITY OF PINSON MOUNDS

Whereas: Pinson Mounds State Archaeological Area is a Tennessee State Park,

managed by the Tennessee Department of Environment and

Conservation's Division of State Parks; and

Whereas: Pinson Mounds State Archaeological Area is a special park, set aside to

protect the prehistoric remains found there, including the largest Middle

Woodland Period (ca. 200 B.C.-A.D. 400) archaeological site in the

Southeast; and

Whereas: Due to its significance and uniqueness, Pinson Mounds State Archaeological

Area was designated a National Historic Landmark in 1964; and

Whereas: The Department of Agriculture's Division of Forestry currently operates

a tree nursery ("Pinson Reforestation Complex") on the property; and

Whereas: Tree planting and tree removal on archaeological sites damage the

integrity of the sites; and

Whereas: Tree planting and tree removal on Native American sites is extremely

disrespectful of Native American culture;

Therefore Be It Resolved,

That the Tennessee Commission of Indian Affairs request legislative action:

- 1. To assure no further tree planting in the Pinson Mounds State Archaeological Area/National Historic Site; and
- 2. To assure no intrusive removal of any trees from the Pinson Reforestation Complex; and
- 3. Requesting the Division of Forestry vacate the Pinson Mounds State Archaeological Area/National Historic Site as soon as possible, with just compensation or trade for the Pinson Reforestation Complex property.

Adopted unanimously by the Tennessee Commission of Indian Affairs 3 December 2005 Memphis

Appendix G

HOUSE JOINT RESOLUTION 84 - Filed for intro on 02/07/2005 by Johnson R

General Assembly, Directed Studies - Urges Tennessee valley authority to refrain from the sale of land designated for public use.

A RESOLUTION concerning land designated for public use owned by the Tennessee Valley Authority.

- WHEREAS, it is the duty of this General Assembly to encourage the responsible ownership by the Tennessee Valley Authority of those lands designated for public use within this State; and
- WHEREAS, the Tennessee Valley Authority (TVA) has established during the course of its history a precedent in which it designates many acres in and around its projects within this State as public land, allowing any and all the opportunity to enjoy the natural beauty of Tennessee; and
- WHEREAS, TVA's public lands provide also significant natural resource benefits to Tennessee's fish and wildlife and thereby benefit the citizens of this State and nation who enjoy and value those resources; and
- WHEREAS, recent movements by TVA to sell, trade, or otherwise transfer parcels of land designated for public use to developers for the purposes of private development are troubling to the members of this body, and represent a marked change from its former approach; and
- WHEREAS, the development by private parties of these lands will affect many aspects of life in and around TVA's lakes, including increasing traffic on and around the lakes, destroying wildlife habitats, abolishing green space, and limiting hunting and fishing opportunities; and
- WHEREAS, the sale, trade, or transfer of TVA lands designated for public use not only represents a change from its traditional code of conduct, but also establishes a disturbing precedent by which all land held by TVA and designated for public use may be sold for the purpose of private development, resulting in the loss of use by the public of many acres of Tennessee's most impressive land; now, therefore,
- BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING,
- that this General Assembly hereby urges the Tennessee Valley Authority and its agents and agencies to refrain from the sale, trade, or otherwise transfer of lands it currently owns and has designated for public use to private developers or to any who might use such land for private development.
- BE IT FURTHER RESOLVED, that an appropriate copy of this resolution be delivered to the Tennessee Valley Authority Board of Directors and to each member of the Tennessee congressional delegation with this final clause omitted from such copy.

Adopted unanimously by the Tennessee Commission of Indian Affairs
3 December 2005 Memphis

Appendix H

Filed for intro on 02/23/2006 SENATE BILL 3455 by Jackson HOUSE BILL 3544 by Kernell

AN ACT to amend Tennessee Code Annotated, Section 4-34-104, relative to the Tennessee commission on Indian affairs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

- SECTION 1. Tennessee Code Annotated, Section 4-34-104(a), is amended in subdivision (2) by deleting the language "grand divisions of the state; and" and by substituting instead the language "grand divisions of the state. A member appointed from a grand division shall not be a resident in a metropolitan area or county contiguous thereto as provided in subdivision (1); and".
- SECTION 2. Tennessee Code Annotated, Section 4-34-104(a), is further amended by adding a new subdivision thereto, as follows:

 (4) Each member shall be a resident in the area from which the member is appointed at least six (6) months prior to the member's appointment.
- SECTION 3. Tennessee Code Annotated, Section 4-34-104(b), is amended by adding a new subdivision thereto, as follows:

 (5) Persons voting at a Tennessee Native American convention shall be entitled to vote only in the caucus area in which they are domiciled.
- SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

CAUCUS AREAS

- A) The metro caucus areas and the grand divisions in which they are located shall be considered separate and equal caucus areas and
- B) Nominees shall be eligible for election only for the caucuses in which they are legal residents.

Adopted unanimously by the Tennessee Commission of Indian Affairs 3 December 2005 Memphis

2005 Referendum,approved by the Tennessee Native American Convention on 24 September 2005

Appendix I

A Resolution for the Recognition of the Historic Native American Indian Tribes of Tennessee

- 1. WHEREAS, the area that now encompasses the Great State of Tennessee was once the homeland and tribal hunting grounds of a number of First Nations People who had great attachment to the land and who did staunchly defend their right to live, hunt, and draw nourishment from that land; and
- 2. WHEREAS, those same people were decimated by imported diseases, warfare, and continual encroachment upon their land, their livelihood, and their way of life; and
- 3. WHEREAS as their numbers dwindled, their rights were usurped at the whim of foreign governments; and whether by choice, by force, or by treaty, these First Nations were made to give up their Natural Birthright and remove to other lands; and
- 4. WHEREAS although the tribes themselves were removed, many individuals managed to remain behind in the lands of their nativity; or, after removal, to return to the lands of their ancestry; and
- 5. WHEREAS the Eastern Ridge and Valley Region of the Tennessee River and its tributaries was known to be the home of the Yuchi Tribe, the Koasati Tribe, and the Tuskegee Tribe in times of earliest contact with the white man; and the evidence of early Muscogee (Creek) occupation in the same region is exhibited by the names of historic Indian towns such as Chattanooga, Tallassee, Etowah and Ooltewah; and
- 6. WHEREAS the tribes in this region were later supplanted by the Cherokee Tribe, who, in many cases, kept the same town names established by the earlier tribes; and went on to establish numerous new towns such as Tellico, Echota, and Settico; and claimed all of Middle Tennessee as their territorial hunting ground; and who, after 1729, allowed a band of the Natchez Tribe to establish a town in what is now known as Monroe County, in an area that is still known as Notchy Creek; and
- 7. WHEREAS about the time of the American Revolution, a war chief known as Dragging Canoe and his followers did separate from the Cherokee Nation and form a new tribe known as the Chickamaugas; and they established new towns in the lower Tennessee and Sequatchie River valleys, both within Tennessee and the neighboring states of Georgia and Alabama; and
- 8. WHEREAS the Chickasaw Tribe once occupied the area that was known as the Chickasaw Bluffs, and is now within the City of Memphis; and the Chickasaws claimed all of Middle Tennessee and West Tennessee as their territorial hunting grounds; and
- 9. WHEREAS portions of the Shawnee Tribe once lived in the Cumberland Basin of Tennessee before twice being expelled by an alliance of the Cherokees and Chickasaws; and after the formation of the Chickamauga Confederacy, the Shawnees were allowed to establish towns among their newfound allies, and left a memento of their name in the modern town of Sewanee; and
- 10. WHEREAS beginning in 1952, several members of the Choctaw Tribe began to move into Lauderdale and Shelby Counties in West Tennessee in search of employment, and established communities there; where, in 1992 the Federal Government purchased 172 acres near Henning to establish housing for them; and they still retain their language and practice many of their customs; and
- 11. WHEREAS there are many pre-historic Indian sites in Tennessee, such as Pinson Mounds, Old Stone Fort, and many lesser-known archaeological sites whose precise links to modern or historical tribes has yet to be definitively established;
- BE IT HEREBY RESOLVED, that the above mentioned First Nations Peoples known as the Yuchi, Koasati, Tuskegee, Muscogee (Creek), Chickasaw, Natchez, Cherokee, Chickamauga, Shawnee, and Choctaw, be recognized as the Historical Tribes of Tennessee; and
- BE IT FURTHER RESOLVED, that any other tribe(s) that archaeological or historical research can link to Tennessee will likewise be given recognition as an Historical Tribe of Tennessee when sufficient evidence is presented.

Approved by the Tennessee Commission of Indian Affairs on 4 March 2006, Nashville

Appendix J

American Indian Research Initiative and State-Wide Health & Education Community Assessment 2007 Proposal

Whereas: American Indians/Alaskan Natives living off-reservation in states without federal/state

recognized tribes have the highest rates of health and education-related social problems, then it is logical to hypothesize that Tennessee American Indians/Alaskan Natives

would be representative, and

Whereas: Given recent political and economic changes from 2000 to 2008, health and education-relat-

ed social problems among Tennessee American Indians/Alaskan Natives are likely to

get much worse in the next decade, and

Whereas: Members of the Tennessee Native American Indian Community have completed initial

training for developing funding applications, consulted with experts in the statistical and sociological fields, and are prepared to assist the Commission in meeting its respon-

sibilities to the Tennessee Native American Indian community, and

Whereas: The Purposes, Powers and Duties of the Tennessee Commission on Indian Affairs (TCA 4-

34-102, 103) assign to the Commission the responsibility to determine the state of the Native American Indian community in Tennessee in order to address its wants and

needs;

THEREFORE be it resolved that the Tennessee Commission on Indian Affairs shall:

- 1. Establish an American Indian Research Initiative at this commission meeting (March 17, 2007) that will develop, submit a plan for, and provide oversight of the funding and conducting of a state-wide community assessment and study with the purpose of obtaining objective data to assess the health and education status of Native American Indians living in the State of Tennessee for 2000 to 2010; and
- 2. Appoint the following individuals who have expressed both interest and a willingness to commit significant time to this project to the research initiative:
 - * Marion Orrick, Sociologist
 - * Donna Smith, Support Staff
 - * Valerie Ohle, Grant Writer
 - * tom kunesh, Commissioner
 - * Melba Checote-Eads, Health Care Profession

Approved and adopted by the TN Commission of Indian Affairs, 17 March 2007 Nashville

Appendix K

Resolution of TNCIA Support for the Native American Indian Association of Tennessee Circle of Life Center

1.	Whereas:	95% of the history of human habitation in Tennessee is Native American Indian; and	
2.	Whereas:	Nashville, the capital city of Tennessee, and Davidson County have the second largest Native American Indian population in the state of Tennessee; and	
3.	Whereas:	The Native American Indian Association of Tennessee (NAIA) is the oldest non-profit organization in the state whose board of directors' is composed of a majority of Native American Indians who are members of federally recognized tribes; and	
4.	Whereas:	The Native American community of Tennessee has no permanent meeting place, library or repository for archives, no intertribal museum, performance venue, exhibit space, nor meeting and pow-wow grounds; and	
5.	Whereas:	There is a great need and desire for a Native American Indian Center in Tennessee as a venue for Native American cultural activities and programming; and	
6.	Whereas:	It has been estimated that over half of the people born in Tennessee are descendants of Native Americans and would benefit from continued educational program development provided by and located at a Native American Indian Center; and	
7.	Whereas:	There is a need for a location in Tennessee that focuses on meeting the educational needs of non-native children and those who are of Native American descent; educating them in Native American Studies and	
8.	Whereas:	For 25 years NAIA has brought in tourism dollars from all over the United States at its annual Pow-Wow highlighting the cultural diversity of Tennessee; and	
9.	Whereas:	The NAIA Tennessee State Pow-Wow generates over \$50,000 annually in local and area tourism dollars, a number that can only increase with larger pow-wow grounds and onsite resources;	
Therefore be it resolved by the Tennessee Commission of Indian Affairs, That the TNCIA support and endorse the creation and construction of the Circle of Life Indian Center as proposed by the Native American Indian Association of Tennessee.			

Approved and adopted by the TN Commission of Indian Affairs, 9 June 2007 Chattanooga